

§ 362.6

12 CFR Ch. III (1–1–02 Edition)

(i) The terms of the FDIC approval order; and

(ii) The provisions of § 362.4(c)(2), (d), and (e) regarding operating as an “eligible subsidiary”, “investment and transaction limits”, and “capital requirements”.

(3) *Divestiture.* An insured State bank that does not receive FDIC consent shall divest of the nonconforming investment as soon as practical but in no event later than two years from the date of charter conversion.

[63 FR 66326, Dec. 1, 1998, as amended at 66 FR 1028, Jan. 5, 2001]

Subpart B—Safety and Soundness Rules Governing Insured State Nonmember Banks

§ 362.6 Purpose and scope.

This subpart, along with the notice and application procedures in subpart G of part 303 of this chapter apply to certain banking practices that may have adverse effects on the safety and soundness of insured state nonmember banks. This subpart contains the required prudential separations between certain securities underwriting affiliates and insured state nonmember banks. The standards only will apply to affiliates of insured state nonmember banks that are not controlled by an entity that is supervised by a federal banking agency.

[66 FR 1028, Jan. 5, 2001]

§ 362.7 Definitions.

For the purposes of this subpart, the following definitions apply:

(a) *Affiliate* has the same meaning contained in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(b) *Activity, company, control, equity security, insured state nonmember bank, security and subsidiary* have the same meaning as provided in subpart A of this part.

[63 FR 66326, Dec. 1, 1998, as amended at 66 FR 1028, Jan. 5, 2001]

§ 362.8 Restrictions on activities of insured state nonmember banks affiliated with certain securities companies.

(a) The FDIC has found that an unrestricted affiliation between an insured

state nonmember bank and certain companies may have adverse effects on the safety and soundness of insured state nonmember banks.

(b) An insured state nonmember bank is prohibited from becoming or remaining affiliated with any securities underwriting affiliate company that directly engages in the public sale, distribution or underwriting of stocks, bonds, debentures, notes, or other securities activity, of a type not permissible for a national bank directly, unless the company is controlled by an entity that is supervised by a federal banking agency or the state nonmember bank submits an application in compliance with § 303.121 of this chapter and the FDIC grants its consent under the procedure in § 303.122(b) of this chapter, or the state nonmember bank and the securities underwriting affiliate company comply with the following requirements:

(1) The securities business of the affiliate is physically separate and distinct in its operations from the operations of the bank, provided that this requirement shall not be construed to prohibit the bank and its affiliate from sharing the same facility if the area where the affiliate conducts retail sales activity with the public is physically distinct from the routine deposit taking area of the bank;

(2) The affiliate conducts business pursuant to independent policies and procedures designed to inform customers and prospective customers of the affiliate that the affiliate is a separate organization from the bank and the state-chartered depository institution is not responsible for and does not guarantee the obligations of the affiliate;

(3) The bank adopts policies and procedures, including appropriate limits on exposure, to govern its participation in financing transactions underwritten by an underwriting affiliate;

(4) The bank does not express an opinion on the value or the advisability of the purchase or sale of securities underwritten or dealt in by an affiliate unless it notifies the customer that the entity underwriting, making a market, distributing or dealing in the securities is an affiliate of the bank; and